APPENDIX A.

Article VIII of 1922 Statutes.

Quo Warranto.

Sec. 9280. Against whom filed. An information may be filed against any person unlawfully holding or exercising any public office or franchise within this state, or any office in any corporation created by the laws of this state, or when any public officer has done or suffered any act which works a forfeiture of his office, or when any persons act as a corporation within this state without being authorized by law, or if, being incorporated, they do or omit acts which amount to a surrender or forfeiture of their rights and privileges as a corporation, or when they exercise powers not conferred by law.

Sec. 9281. Information, electors may file. Such information may be filed by the attorney general or by the county attorney of the proper county whenever either of such officers deem it his duty so to do, except that the county attorney shall not have authority to file such information against any state officer or a judge of the district court. Provided, however, that any elector of the proper county may file such information against any person unlawfully holding or exercising the functions of any public office in the state, other than state officers or judges of the district court, whenever the county attorney of the proper county shall refuse so to do within ten days after he shall have been notified in writing by any elector that any such person is disqualified by the constitution or the laws of the State of Nebraska to hold the office in question or to exercise the functions thereof. Any person other than the county attorney who shall institute such action shall file with such

information in the office of the clerk of the district court a bond signed by a duly authorized surety company or by two resident freeholders of the county in which said action is filed, the amount of which bond shall be not less than five hundred dollars and be fixed by, and the sufficiency of the sureties thereon approved by the said clerk. Said bond shall be conditioned that the plaintiff shall prosecute such action without delay and that he shall pay the costs of such suit including a reasonable attorney fee to the person against whom such information is filed should said action be unsuccessful. The amount of such attorney fee to be fixed by the court and taxed as costs in said action.

Sec. 9282. Attorney general or county attorney to file. The attorney general or the county attorney of the proper county must file such information when directed to do so by the governor, the legislative assembly, or the district court.

Sec. 9283. Contents of information. Such information shall consist of a plain statement of the facts which constitute the grounds of the proceeding, addressed to the court, which shall stand for an original petition.

Sec. 9284. Same—summons. Such statement shall be filed in the clerk's office, and summons issued and served in the same manner as hereinbefore provided for the commencement of actions in the district court.

Sec. 9285. Answer. The defendant shall appear and answer such information in the usual way, and issue being joined it shall be tried in the ordinary manner.

Sec. 9286. Rights of claimant. When the defendant is holding an office to which another is claiming the right, the

information should set forth the name of such claimant, and the trial must, if practicable, determine the rights of the contesting parties.

Sec. 9287. Judgment in his favor. If judgment be rendered in favor of such claimant, he shall proceed to exercise the functions of the office, after he has qualified as required by law.

Sec. 9288. Delivery of books and papers. The court, after such judgment, shall order the defendant to deliver over all books and papers in his custody or under his control belonging to said office.

Sec. 9289. Suit for damages. When the judgment has been rendered in favor of the claimant, he may at any time within one year thereafter, bring suit against the defendant and recover the damages he has sustained by reason of the act of the defendant.

Sec. 9290. Several claimants. When several persons claim to be entitled to the same office or franchise, an information may be filed against all or any portion thereof, in order to try their respective rights thereto.

Sec. 9291. Ouster. If the defendant be found guilty of unlawfully holding or exercising any office, franchise or privilege, or if a corporation be found to have violated the law by which it holds its existence, or in any other manner to have done acts which amount to a surrender or forfeiture of its privileges, judgment shall be rendered that such defendant be ousted, and altogether excluded from such office, franchise, or privilege, and also that he pay the costs of the proceeding.

Sec. 9292. Judgment in other cases. If the defendant be

found to have exercised merely certain individual powers and privileges to which he was not entitled, the judgment shall be the same as above directed, but only in relation to those particulars in which he is thus exceeding the lawful exercise of his rights and privileges.

Sec. 9293. Title of cause—costs. When an information is upon the relation of a private individual, it shall be so stated in the petition and proceedings, and such individual shall be responsible for costs in case they are not adjudged against the defendant. In other cases the title of the cause shall be the same as in a criminal prosecution, and the payment of costs shall be regulated by the same rule.

Sec. 9294. Pretended corporation—costs. In case judgment is rendered against a pretended, but not real, corporation, the costs may be collected from any person who has been acting as an officer or proprietor of such pretended corporation.

Sec. 9295. Dissolved corporations—trustees. If a corporation is ousted and dissolved by the proceedings herein authorized, the court shall appoint three disinterested persons as trustees of the creditors and stockholders.

Sec. 9296. Same—bonds. Such trustees shall enter into bond, in such a penalty and with such security as the court may approve, conditioned for the faithful discharge of their trust.

Sec. 9297. Suit on bond—by whom brought. Suit may be brought on such bond by any person injured by the negligence or wrongful act of the trustees in the discharge of their duties.

Sec. 9298. Trustees—duties. The trustees shall proceed

immediately to collect the debts and pay the liabilities of the corporation, and to divide the surplus among those thereto entitled.

Sec. 9299. Books, etc., of corporation. The court shall, upon an application for that purpose, order any officer of such corporation, or any other person having possession of any of the effects, books, or papers of the corporation in anywise necessary for the settlement of its affairs, to deliver up the same to the trustees.

Sec. 9300. Trustees—inventory. As soon as practicable, after their appointment, the trustees shall make and file in the office of the clerk of the court, an inventory of all the effects, rights and credits which come to their possession or knowledge, the truth of which inventory shall be sworn to.

Sec. 9301. Act same as executors. They shall sue for and recover the debts and property of the corporation, and shall be responsible to the creditors and stockholders, respectively, to the extent of the effects which come to their hands in the same manner as though they were the executors of a deceased person.

Sec. 9302. Officers liable jointly and severally. When judgment of ouster is rendered against a corporation on account of the misconduct of the directors or officers thereof, such officers shall be jointly and severally liable to an action by any one injured thereby.

Sec. 9303. Contempt of court—penalty. Any person who, without good reason, refuses to obey any order of the court as herein provided, shall be deemed guilty of a contempt of court, and shall be fined in any sum not exceeding five thousand dollars, and imprisoned in the county jail until he comply with said order, and shall be further liable for the

damages resulting to any person on account of his refusal to obey such order.

Sec. 9304. Letters patent—information of annulment. A proceeding of this kind may be instituted in the manner above contemplated, for the purpose of annulling or vacating any letters patent granted by the proper authorities of this state, where there is reason to believe that the same were obtained by fraud, or through mistake or ignorance of a material fact, or when the patentee, or those claiming under him, have done or omitted an act in violation of the terms and conditions on which the letters were granted, or have by any other means forfeited the interest acquired under the same.

Sec. 9305. Information by private persons. When any citizen of this state shall claim any office which is usurped, invaded or unlawfully held and exercised by another, the person so claiming such office shall have the right to file in the district court an information in the nature of a *quo warranto,* upon his own relation, and with or without the consent of the prosecuting attorney, and such person shall have the right to prosecute said information to final judgment: Provided, he shall have first applied to the prosecuting attorney to file the information, and the prosecuting attorney shall have refused or neglected to file the same.

Sec. 9306. Neglect of duty forfeits office. Any county attorney or prosecuting officer, sheriff, police judge, mayor, police officer, or police commissioner or other officer who shall wilfully fail, neglect or refuse to enforce any law which it is made his duty to enforce shall thereby forfeit his office and may be removed therefrom.

Sec. 9307. *Quo warranto* against negligent officer. The

attorney general of the state, when directed by the governor, shall institute and prosecute *quo warranto* proceedings in the supreme court against any such county attorney or prosecuting officer, sheriff, police judge, police officer, or police commissioner, mayor or other officer, and if the court shall find that such officer has wilfully failed or refused to enforce any law which it is his duty as such officer to enforce, then the court shall render judgment of ouster against such officer and the office shall thereby become vacant.